* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ Crl.Appeal No.427/2004

% Date of Decision : 25th of January, 2008

\# RAJENDER SINGH & ANR. .....Appellants
! Through: Mr. R.S. Mishra, Adv. for A-1.
Mr. Sumeet Verma, Adv. for A-2.

versus

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STATE .....Respondent
^ Through : Ms. Fizani Hussain, Addl. P.P.

* CORAM:
HON'BLE MR. JUSTICE B.N. CHATURVEDI
HON'BLE MR. JUSTICE G.S. SISTANI

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

: **B.N.CHATURVEDI, J.**

1. The appellants were, by a judgment dated 24th March, 2004, passed by learned Addl. Sessions Judge, Delhi, in sessions case No.233/1999, convicted on the charges under Sections 302/34, 307/34 and 392/34 IPC and sentenced by an order

dated 27th March, 2004 thus :

(i) imprisonment for life and a fine of Rs.1000/- each, in default of payment of fine, four months RI under Section 302 read with Section 34 IPC;

(ii) seven years RI and a fine of Rs.1000/- each, in default of payment of fine four months RI under Section 307/34 IPC and

(iii) seven years RI and a fine of Rs.1000/- each, in default of payment of fine four months RI under Section 392/34 IPC.

All sentences of imprisonment are to run concurrently.

2. The facts as unfolded in the FIR, registered on a statement made by one Pawan Kumar, are that on the intervening night of 10/11th of February, 1999 at about 12 midnight Pawan Kumar complainant, as driver of truck No.HR 38 A-5535, which was loaded with 300 rice bags, started from R.T. Agro Mills, Narela Road, Piao Maniari, Haryana for Thana Mandir, Mumbai and while the truck was taking a

turn from a cut at GT Road, opposite Atlas factory, Piao Maniari towards Delhi, a two wheeler scooter of green colour, Bajaj make, bearing a Haryana registration number, with three persons seated thereon stopped along the left side front wheel of the truck whereupon Pawan Kumar stopped the truck. Out of three persons on the scooter, one of them was wearing police uniform and had a danda in his hand. The scooter was being driven by appellant Rajinder Singh. Appellant Sarvan and the third person identified as Ved Pal, a proclaimed offender, were pillion riders. The appellants and their accomplice Ved Pal made Pawan Kumar to get down from the truck. One Hans Raj (deceased), working as a cleaner, was accompanying Pawan Kumar in the truck at the relevant time. The appellants and their third accomplice asked Pawan Kumar to pay Rs.5,000/- for causing damage to their scooter. Instead of acceding to such demand Pawan Kumar offered to get their scooter repaired. Pawan Kumar

as also the appellants and their third accomplice went to a nearby mechanic shop. They came across with one Imtiaz Ahmed there at the shop, who told that an amount of Rs.1000-1500/- would have to be incurred as cost of repair. Pawan Kumar however, informed that he had Rs.200-300/- only. Upon this Ved Pal asked Pawan Kumar to accompany them to the police station. The appellants and Ved Pal left the scooter at the mechanic shop and got into the truck. The truck thereafter started proceeding towards Delhi. After covering a distance of about half a kilometer on crossing Singhu Border, the appellants and their accomplice Ved Pal asked Pawan Kumar to stop the truck, which he did.

3. It was a foggy and chilly winter night. The appellants and Ved Pal took Pawan Kumar to the other side of the road while Hans Raj (deceased) remained seated in the truck only. On Pawan Kumar inquiring as to where the police station is, appellant Rajender Singh put a strip of cloth (patti) around his

neck and Ved Pal caught hold of his legs. Both the appellants pulled the strip of cloth piece from opposite ends as a result Pawan Kumar turned unconscious. Thinking him dead, the appellants threw Pawan Kumar into a road side pit along the ganda nala. Pawan Kumar regained consciousness around 4.00 am. On opening his eyes he saw appellant Rajender Singh standing there looking towards him. Out of fear, he shut his eyes and stayed motionless. After staying there for about two minutes, appellant Rajender Singh, thinking Pawan Kumar to be dead, left. Pawan Kumar a shortwhile thereafter crossed the ganda nala and reached a nearby village where he met a watchman. He told him the entire happening. After having tea offered by the watchman, Pawan Kumar took a lift in a Canter and reached Haider Pur, the residence of Sukhdev Singh, who happened to be the other driver on the same very truck. Pawan Kumar narrated the whole incident to Sukhdev Singh. Sukhdev Singh

and Pawan Kumar hired an auto rickshaw and headed to Kundli Border from where a telephone call was made to Sukhvinder Singh, owner of the truck to apprise him of the incident. A call to PCR was also made by them. Pawan Kumar, Sukhdev Singh and Sukhvinder Singh later reached the spot where the dead body of Hans Raj was lying. The police had already reached the spot before arrival of Pawan Kumar, Sukhdev Singh and Sukhvinder Singh. Pawan Kumar and Sukhvinder Singh identified the dead body of Hans Raj. A statement of Pawan Kumar was recorded on the basis of which a FIR No.39/1999 under Sections 392/307/302/34 IPC was registered at PS Narela Industrial Area, Delhi.

4. According to prosecution case, both the appellants and their accomplice Ved Pal after committing the said crimes sped away in the truck loaded with 300 rice bags. The appellants had later gone to the mechanic shop at about 7.00 am in a Tata 407 vehicle and collected their scooter from

there.

5. Appellant Rajender Singh was on 3rd April, 1999 arrested in a case FIR No.106/1999 under Section 27 Arms Act, PS Alipur. In the course of interrogation he allegedly made a disclosure statement of his involvement in commission of said crimes. Similarly, appellant Sarvan was also arrested in connection with another case by the police of PS Alipur and on his interrogation he too disclosed about his being a party to the commission of crimes in question. An information was accordingly passed on to PS Narela Industrial Area and both the appellants were thereupon arrested in the present case. Pursuant to a disclosure by appellant Rajender Singh a two wheeler scooter was recovered from his place.

6. The trial court based the impugned conviction of the appellants on circumstantial evidence as brought out in the statements of Pawan Kumar, PW-6 and Imtiaz Ahmed, PW-7.

7. Learned counsel for the respective appellants argued that in recording the finding of conviction, the learned trial court erred in making proper evaluation of evidential value of statements of Pawan Kumar, PW-6 and Imtiaz Ahmed, PW-7. It was contended that as far as taking away of truck loaded with rice bags and commission of murder of Hans Raj are concerned, there is no direct evidence in that regard. Their further contention was that it was on alleged disclosure statements of the appellants on their arrest in two different cases that led to their arrest for their involvement in the present case. According to learned counsel for the appellants it was Pawan Kumar, PW-6, who was in fact involved in commission of murder of Hans Raj, which is evident from his having suffered linear circular abrasion around his neck as mentioned by the doctor concerned in his MLC as a result of retaliatory act of Hans Raj who tried to strangulate him. Further argument was that apart from alleged recovery of

a two wheeler scooter at the instance of appellant Rajender Singh, no recovery of any incriminating article including the wrist watch or silver ring, which, according to Pawan Kumar, PW-6 were removed from his body after his attempted strangulation was effected from either of them. It was contended that the statements of Pawan Kumar, PW-6 and Imtiaz Ahmed, PW-7 at best bring out a case of last seen and simply on the basis of that the learned trial court was not justified in concluding that it were the appellants and their third accomplice who had committed the murder of Hans Raj, cleaner and had taken away the truck loaded with rice bags. Various discrepancies were pointed out in the statement of Pawan Kumar, PW-6 with a view to impeach his creditworthiness. It was pointed out that though finger prints were lifted from the truck in question, no specimen finger prints of either of the appellants were taken for comparison by the finger print expert. There is thus, contended the

counsel for appellants, no evidence to prove that the truck in question loaded with rice bags had been taken away by the appellants after Pawn Kumar, PW-6 was rendered unconscious and Hans Raj had been murdered. Alleged recovery of the two wheeler scooter from the place of appellant Rajinder Singh was contended to be questionable in view of such recovery having not been effected in the presence of any independent witness from the village.

8. Learned Addl. P.P. Ms. Fizani Hussain on the other hand sought to defend the impugned conviction and sentence of the appellants on the strength of evidence on record with particular reference to the testimony of Pawan Kumar, PW-6 and Imtiaz Ahmed, PW-7. She contended that the statements of the said two witnesses prove that the appellant and his third accomplice with intent to commit robbery of the rice bags loaded in the truck wanted to get rid of Pawan Kumar, PW-6 by abortively strangling him in the first instance and

then eliminating Hans Raj, cleaner in the same manner and that it was by his sheer luck that Pawan Kumar, PW-6 survived to identify the appellants as the ones who alongwith their third accomplice Ved Pal committed the crimes in question.

9. We have heard Mr. R.S. Mishra, Advocate and Mr. Sumeet Verma, Advocate for appellant No.1 Rajender Singh and appellant No.2 Sarvan respectively as also Ms. Fizani Hussain, Addl. P.P. for the State.

10. Sustainability of impugned judgment of conviction greatly depended on extent of acceptability of statements of Pawan Kumar, PW-6 and Imtiaz Ahmed, PW-7. Learned trial court in its impugned judgment though came to notice certain discrepancies occurring in the statement of Pawan Kumar, PW-6 it did not attach much importance thereto and rather brushed aside the same on the ground that in the face of traumatic experience

which he underwent on previous night in view of unsuccessful bid on his life, he was not in a proper frame of mind to recount the details of the incident as also in rendering material particulars in the course of his cross examination with respect to subsequent developments of his approaching Sukhdev Singh, PW-16 and later returning to the place of occurrence in the company of that witness when he came to know that Hans Raj cleaner was lying murdered and the truck loaded with rice bags was missing from the place where he had parked the same previous night.

11. From the prosecution's perspective, testimony of Pawan Kumar, PW-6 occupies the place of key importance. Acceptance of his statement by the learned trial court as a truthful account appears to stem from his being accorded status of an injured witness. While doing so, the learned trial court however, lost sight of certain vital aspects, which tend to impact his credibility to an extent where his

own role is rendered questionable.

12. Attempt on the life of Pawan Kumar, PW-6 and murder of Hans Raj was, according to the prosecution, carried out with an intent to rob the rice bags loaded in the truck. Going by the statement of Pawan Kumar, PW-6 it would be noticed that he had to stop the truck while negotiating a turn as the appellants and their accomplice Ved Pal (P.O.) stopped their scooter by left front side wheel of the truck. In the entire statement of Pawan Kumar PW-6, there is no mention of the two wheeler scooter, being driven by appellant Rajinder Singh, coming into contact with left front wheel of the truck which could have resulted into any damage to the scooter. Where damage to the scooter is ruled out, there could be no question of demand of Rs.5,000/- being made by the appellants and their accomplice Ved Pal as compensation and Pawan Kumar, PW-6 in turn, instead of paying that amount agreeing to get the

scooter repaired at his cost. If this part of prosecution story is rendered unacceptable, Imtiaz Ahmed, PW-7, the scooter mechanic, goes out of picture. Pawan Kumar, PW-6 in the first instance states that he alongwith the appellant and his accomplice Ved Pal had taken the scooter to the shop of Imtiaz Ahmed, PW-7 which was at a short distance, to get the same repaired. However, at another place he testifies that the appellants and their accomplice had parked the scooter on the road side and similarly he also parked his truck by the side of the road and went to scooter repair shop alongwith the appellants and their accomplice and even Hans Raj, cleaner also accompanied. This part of his statement, apart from being self contradictory to his own statement, also goes against the statement of Imtiaz Ahmed, PW-7 who affirmed that on seeing the extent of damage to the scooter he had assessed the cost of repair in the range of Rs.1000-1500/- and further that Hans Raj, cleaner

had not come to his shop .

13. Leaving apart the prosecution story in regard to damage to the scooter and the same being taken to the mechanic shop, reverting to the scene of crime, even though the particular place where the appellants and their accomplice had tried to strangle Pawan Kumar, PW-6 is not indicated in the site plans Ex. PW 33/B and Ex. PW 13/1, from the statement of Pawan Kumar, PW 6 it is gathered that it was somewhere on the other side of the road near point-H in Ex. PW 13/1 where the truck was got stopped. While Pawan Kumar, PW-6 was taken to the other side of the road, Hans Raj (deceased) remained seated in the truck only. Immediately on reaching the other side of the road, appellant Rajinder Singh put a strip of cloth piece around his neck and while appellants' accomplice Ved Pal caught hold of his legs, the appellants pulled the ligature from opposite directions to strangle him to death. In a scenario where two persons with an intent to cause

death of a person pull the ligature from opposite ends, extent of force applied would certainly be much greater than the one where only one person pulls the ligature from both the ends. MLC of Pawan Kumar, PW-6 vide Ex. PW 5/1 reads thus :

> "alleged h/o assault last night, brought by Ct. Devender Singh No.653/NW for medical check up. O/E - patient is conscious, oriented in time and place
> pulse – 80/nil pupil NSNRL
> BP 120/80
> Injuries
> (1) linear, circular abrasion around neck
> (2) bruise over nose
> (3) bruise around left eye
> (4) s/c hly LE
> (5) bruise over (RT) forearm"

14. MLC Ex. PW 5/1 thus discloses only superficial injuries on the person of Pawan Kumar, PW-6 with no internal injuries to the neck structure. In a case where two persons would try to strangle a person to death by pulling ligature from opposite ends the chances of survival would appear to be very remote. Pawan Kumar, PW-6 in the given case however claims to have survived inspite of both the appellants trying to strangle him to death. The fact

that Pawan Kumar, PW-6 did not visit a doctor or hospital until he was taken to Hindu Rao Hospital at about 4.10 pm on 11th February, 1999 shows that he did not have any serious problem which needed to be attended to immediately by a doctor. Pawan Kumar, PW-6 testified that on being strangled by the appellants he had turned unconscious and continued in that state before regaining consciousness around 4.00 am. Interestingly, he had no watch with him as according to him the same had been removed from his person by the appellants and in the event of his remaining unconscious he would have lost orientation in time and space in which situation he could not have been in a position to find approximate time of his regaining consciousness. His further statement is that on regaining consciousness he noticed appellant Rajinder Singh standing at the top of the pit and looking at him. If the time as stated by Pawan Kumar, PW-6 is accepted it would appear that the

appellant Rajinder Singh continued to hang around even after his strangling and murder of Hans Raj. The prosecution case is that the appellants and their accomplice were to get rid of Pawan Kumar (PW-6) and Hans Raj with a view to rob the truck loaded with 300 rice bags. If that was the intention, there could be no reason for Rajinder Singh appellant continuing to be present at the spot for about three hours in a chilly winter night. The statement of Pawan Kumar, PW-6 therefore, to the effect that on regaining consciousness around 4.00 am he noticed the appellant Rajinder Singh present there appears to be difficult to believe.

15. On regaining consciousness Pawan Kumar, PW-6, instead of going back to the truck to know the well being of Hans Raj (deceased), quietly moved away to a village and thereafter proceeded to the house of Sukhdev Singh, PW-16. In the nearby village Pawan Kumar, PW-6 claims to have had come across with a watchman, who, on his narrating the

entire incident, offered him a cup of tea. This watchman has not been examined as a witness to lend corroboration to the statement of Pawan Kumar, PW-6.

16. According to Sukhdev Singh, PW-16, Pawan Kumar, PW-6 had reached his house at about 8.00 am on 11th February, 1999 and told him about the entire incident. He thereafter accompanied by Pawan Kumar, PW-6 proceeded to the spot in a three wheeler scooter. He started from his house at about 11 am. Why he took about three hours to start from his house is not clear from the statement of this witness. He deposed that from his house he and Pawan Kumar, PW-6 had first gone to Narela/Kundli Border and from there the truck owner namely Sukhvinder Singh, PW3 was told on phone from a STD booth regarding the happening during night. Contrary to the statement of Sukhdev Singh, PW-16 Pawan Kumar, PW-6 deposed that he alongwith Sukhdev Singh, PW-16 had hired a three

wheeler scooter and reached the spot where the truck was found missing and thereafter he and Sukhdev Singh, PW-16 went to a STD booth to inform the owner of the truck Sukhvinder Singh, PW-3 on telephone about the incident. The statements of Pawan Kumar, PW-6 and Sukhdev Singh, PW-16 are thus at variance in regard to the point of time and the particular place from where Sukhdev Singh, PW-3 was informed of the incident. If the statement of Pawan Kumar, PW-6 is to be accepted, he, accompanied by Sukhdev Singh, PW-16, had first proceeded to the place where the truck was parked previous night and on reaching there found the truck missing. Apart from noticing that the truck was not there, Pawan Kumar, PW-6 had no knowledge by that time that the dead body of Hans Raj, cleaner was lying there at some distance. Be it the statement of Pawan Kumar, PW-6 or that of Sukhdev Singh, PW-16 both were ignorant of the murder of Hans Raj by the time telephone call was

made to Sukhvinder Singh, PW-3. A reference to the statement of Sukhvinder Singh, PW-3 however brings out a different story. According to him, he was informed on phone by Sukhdev Singh, PW-16 that as per information furnished by Pawan Kumar, PW-6, Hans Raj, cleaner of the truck had been murdered and the culprits had sped away in the truck with loaded rice bags. If this part of statement of Sukhvinder Singh, PW-3 is to be accepted, it would appear that Pawan Kumar, PW-6 already had the knowledge of Hans Raj being murdered and the truck loaded with rice bags being taken away. Further, according to Sukhdev Singh, PW-16 as also Inspector Sohan Vir Singh, PW-33, Pawan Kumar, PW-6, accompanied by Sukhdev Singh, PW-16, had reached the spot at about 12 noon. Inspector Sohan Vir Singh remained present at the spot from 9.30 am onwards. Even Sukhdev Singh, PW-16 does not claim that he had reached the spot before 12 noon since he had started from his house at 11 am only

and was not expected to reach the spot before that. Pawan Kumar, PW-6 on the contrary affirmed that he saw the dead body of Hans Raj at about 8/9 a.m. and identified the same. This could not be true as even the police learnt about the dead body of Hans Raj only at 9.12 a.m. on 11th February, 1999. A wireless message in that regard was received and recorded in the daily diary vide Ex. PW 11/1. Pawan Kumar, PW-6 stated that after Sukhdev Singh, PW-16 had made a phone call to Sukhvinder Singh, PW-3, another telephone call was made to PCR from the STD booth and pursuant to that call the police came to the booth and told him and Sukhdev Singh, PW-16 that a dead body was lying there at some distance and on being so asked by the police, both of them went with the police to the spot where the dead body of Hans Raj was lying. There is however, nothing on record to find that Pawan Kumar, PW-6 or Sukhdev Singh, PW-16 ever made any phone call to PCR in regard to the incident and that pursuant

to any such phone call, the police had come to the booth and took Pawan Kumar, PW-6 and Sukhdev Singh, PW-16 to the spot to identify the dead body of Hans Raj. Inspector Sohan Vir Singh, PW-33 categorically stated that from 9.30 am to 4.30 pm when he remained present at the spot, no other police official, apart from those who had accompanied him to the spot, had come there. This clearly falsifies the statement of Pawan Kumar, PW-6 that the police had come to the STD booth and had taken him as also Sukhdev Singh, PW-6 along to the spot.

17. The articles lifted from the place where dead body of Hans Raj was lying, included an ear ring and a pair of cherry colour gurgabi (shoes), which Pawan Kumar, PW-6 identified to belong to him. Notably, as indicated in the scaled site plan Ex. PW-13/1 the dead body of Hans Raj was found lying at a distance of more than 122 mtrs. from the place where the truck was got stopped. The place where Pawan

Kumar, PW-6 was thrown into a road side pit after strangling was just on the other side of the road near point H. The distance between the place where Pawan Kumar, PW-6 was thrown into the pit after strangling and the place where dead body of Hans Raj was found lying was approximately the same as between points A and H. Pawan Kumar, PW-6 at no point of time had the occasion to go near the place at point A. In his statement Pawan Kumar, PW-6 told that his wrist watch, a silver ring and ear ring were taken away by the appellants and his accomplice. The watch and the silver ring are not shown to have been recovered from either of the appellants. The ear ring Ex. P-6 and the pair of shoes Ex. P-2 belonging to Pawan Kumar, PW-6 were found near the place where the dead body of Hans Raj was lying. Even if, it be taken that the ear ring Ex. P-6 had been removed from the person of Pawan Kumar, PW-6 as stated by him and would have fallen down from the pocket of the assailants of

Hans Raj, no explanation is forthcoming so far as his pair of shoes Ex. P-2 being found near dead body of Hans Raj is concerned. Recovery of the pair of shoes Ex. P-2 belonging to Pawan Kumar, PW-6 from near the place where dead body of Hans Raj was discovered, was a vital fact which escaped the attention of learned trial court. This fact adds an altogether new twist to the whole crime scenario where role of Pawan Kumar, PW-6 cannot be viewed beyond suspicion.

18. The testimony of Imtiaz Ahmed, PW-7, held the learned trial court corroborated the statement of Pawan Kumar, PW-6 in regard to the identity of the appellants. As observed hereinabove, contrary to the statement of this witness that a damaged two wheeler scooter was taken to his shop, there is no affirmation by Pawan Kumar, PW-6, who happened to be the sole witness on the point, that left front wheel of his truck had in any way come into contact with the two wheeler scooter. Thus, the fact that the

scooter had actually got damaged being not proved, the question of it being taken to the shop of Imtiaz Ahmed, PW-7 could not have arisen. According to Imtiaz Ahmed, PW-7 at the relevant time when the scooter was taken to his shop past midnight, he was working at his shop. At such late night hours on a chilly winter night, the affirmation of Imtiaz Ahmed, PW-7 of being at work, is to be taken with a pinch of salt. The shop was on lease with Imtiaz Ahmed, PW-7. No evidence of any sort has been brought on record to establish that Imtiaz Ahmed, PW-7 was lessee of the repair shop. The appellants and their accomplice, according to Imtiaz Ahmed, PW-7 came to his shop in the morning and took away the scooter with them. At the relevant time apart from others even the owner of the shop was present. Though the shop owner had also seen the appellants and their accomplice collecting the scooter from the repair shop, he was not examined as a witness to lend corroboration to Imtiaz Ahmed, PW-7's testimony. In

the face of uncertainty regarding presence of Imtiaz Ahmed, PW-7 at the mechanic shop and scooter being taken there in damaged condition as also questionable nature of testimony of Pawan Kumar, PW-6, the affirmation by Imtiaz Ahmed, PW-7 turns out to be of little avail.

19. Recovery of scooter Ex. P-1 from the house of appellant Rajinder Singh at his instance was claimed to have been effected on 5th April, 1999 in the presence of police officials only. Learned trial court inspite of being conscious of discrepancies in the statements of police officials witnessing the recovery accepted such recovery as it found that the police officials would not have known otherwise than on a disclosure by appellant Rajinder Singh that scooter Ex. P-1 was lying there in his house. While recording such a finding the learned trial court appears to have presupposed that recovery of scooter Ex. P-1 was effected from the house of appellant Rajinder Singh only. No person from the village was

associated to witness the recovery of scooter Ex. P-1 from the house of appellant Rajinder Singh. The scooter Ex. P-1 is not claimed to be owned by appellant Rajinder Singh. The police did not try to find out the registered owner of the scooter Ex. P-1. Was it a stolen one, the police did not find it proper to investigate. Where the situation is that the scooter Ex. P-1 did not belong to appellant Rajinder Singh and the same is also not proved to be a stolen one, recovery thereof from the house of appellant Rajinder Singh sounds somewhat strange.

20. Inspite of major discrepancies in the statement of Pawan Kumar, PW-6 as noticed hereinabove, the learned trial court overlooked the same as it felt that in the face of harrowing experience on the previous night he had lost his composure and was thus in a confused state of mind. We find such a reasoning clearly fallacious. The learned trial court appears to have proceeded to scrutinize the statement of Pawan Kumar, PW-6 on a

belief that he was a victim at the hands of the appellants and their accomplice and had barely survived the bid on his life. It is difficult to lose sight of the major discrepancies in the statement of Pawan Kumar, PW-6 which render it highly unsafe to make his testimony as a basis to record the finding of conviction against the appellants. But for doubtful recovery of scooter Ex. P-1 at the instance of appellant Rajinder Singh, no recovery of any other incriminating material has been proved on record which could lead to connect them with the commission of crimes in question. It is only on a last seen evidence in the form of statement of Pawan Kumar, PW-6 with so called corroboration from Imtiaz Ahmed, PW-7 that charges against the appellants were held by the learned trial court as proved beyond doubt. We however on reappraisal of the entire evidence on record find it difficult to reach the same conclusion. In view of impeachable testimony of Pawan Kumar, PW-6, the prime witness,

the judgment of conviction cannot be sustained.

21. In the result, appeal is allowed and the impugned judgment of conviction and order of sentence are set aside. The appellants stand acquitted of all the charges and are directed to be set at liberty forthwith if not required to be detained in connection with any other case.

(B.N.CHATURVEDI)
JUDGE

(G.S. SISTANI)
JUDGE

January 25, 2008
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